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EXAMINER

WYSZOMIERSKI, GEORGE P

ART UNIT PAPER NUMBER

1742

DATE MAILED: 09/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/071,990

Applicant(s)

HASEGAWA ET AL.

Examiner

George P Wyszomierski

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on 03 July 2003.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-10 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-10 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hasegawa et al. (U.S. Patent 5,110,378).

Hasegawa discloses amorphous alloys containing 70-87% iron, no more than 3% of the elements as recited in the instant claims, with the balance being boron, silicon and carbon. Hasegawa states that these alloys have a low ac core loss, and that they “provide a linear output over a wide range of applied fields” (Hasegawa column 4, lines 63-64). The saturation induction is as recited in claims 2 and 7; see Hasegawa Table III. The prior art alloys have been heat treated in a magnetic field as recited in claims 3 and 8; see Hasegawa column 4, lines 41-43. The heat treatment in the prior art is performed under conditions as recited in claims 4, 5, 9 and 10; see Hasegawa column 3, lines 27-30. Thus, all aspects of the claimed invention appear to be fully met by Hasegawa et al.

Based upon Applicant's comments on pages 4-5 of the response filed July 3, 2003, it appears that Applicant is employing a specific definition of the term "linear BH characteristic" which may or may not cause the materials according to the present claims to be distinguished over those of Hasegawa. However, the actual wording of the claims merely recites the phrase "linear BH characteristic", and the disclosure from column 4 of Hasegawa quoted supra would appear to be equivalent to the term as claimed. Given that the Hasegawa materials may be of the same compositions as those presently claimed, are treated under substantially the same conditions as those claimed, and appear to possess properties substantially the same as those of the inventive materials, the examiner holds that the claimed invention would at a minimum have been prima facie obvious to one of ordinary skill in the art, given the disclosure of Hasegawa et al.

3. In the July 3, 2003 response as discussed supra, Applicant alleges that the claimed invention can be distinguished from Hasegawa based upon certain properties regarding the linear characteristics of the claimed materials. However, the instant claims do not define the invention with sufficient specificity to cause the claims to delineate material that would be patentably distinct from what is disclosed by the prior art (Hasegawa). Consequently, the rejection based upon Hasegawa et al. is being maintained at this time. The examiner accepts Applicant's explanation regarding the term "replaced by" in the instant claims; thus the previous rejection under 35 USC 112, second paragraph, is withdrawn.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Wyszomierski whose telephone number is (703) 308-2531. The examiner can normally be reached on Monday thru Friday from 8:00 a.m. to 4:30 p.m. Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached on (703) 308-1146. The fax phone number for this Group is (703) 872-9310 for all correspondence except for After Final amendments in which case the Fax number is (703) 872-9311. The Right fax number for this examiner is (703) 872-9039. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

GPW  
September 15, 2003



GEORGE WYSZOMIERSKI  
PRIMARY EXAMINER